

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHERYL A. SOUTHERLAND	:	Case No. C-1-02-162
	:	J. Spiegel
Plaintiff,	:	
	:	
v.	:	
	:	
SYCAMORE COMMUNITY SCHOOL	:	AFFIDAVIT OF
DISTRICT BOARD OF EDUCATION	:	<u>MARK W. NAPIER</u>
	:	
Defendant.	:	

State of Ohio)
) SS
County of Hamilton)

Mark. W. Napier, being first duly cautioned and sworn, states as follows:

1. That I am an attorney admitted to practice in the state courts of Ohio, the state courts of Kentucky, the U. S. Sixth Circuit Court of Appeals, the U. S. District Court for the Southern District of Ohio, the U. S. District Court for the Eastern District of Kentucky, and the U. S. District Court for the Southern District of Indiana;
2. That I graduated from Ohio Northern University School of Law in June, 1978, and was admitted to the Ohio Bar in November, 1978;
3. That I have been an associate attorney in the law firm of Freking & Betz since October 1, 2001, engaged primarily in the practice of employment law;
4. That prior to joining Freking & Betz, I was a partner with the law firm of Young, Reverman & Napier, employed with that firm since 1983, and engaged primarily in the practice of employment law and personal injury law on behalf of plaintiffs;
5. That Freking & Betz emphasizes employment law on behalf of plaintiffs, and that all members of our firm maintain daily time records of services in tenths of an hour;



6. That I have served as counsel for Plaintiff Cheryl Southerland in this matter;

7. That the depositions taken by Plaintiff in this case were necessary for the presentation of Plaintiff's case and to impeach Defendant's witnesses;

8. That this case presented a substantial risk of no recovery because the case was difficult and the availability of damages was greatly disputed;

9. That Defendant never engaged in serious settlement discussions and as late as the Final Pre-Trial Conference advised the Court that it viewed any settlement value to the case as minimal;

10. That this action resulted in successful claims under Title VII of the 1964 Civil Rights Act;

11. That as demonstrated by the summary of attorney's time attached as Exhibit A, billing records attached as Exhibit D, and counsel's affidavit (Exhibit E), my time and other Plaintiff's counsel's time was spent on multiple necessary activities including investigation, participation in the EEOC investigation that resulted in an agency probable cause finding, attempts at conciliation while the matter was pending with the EEOC, pre-suit settlement negotiations, extensive written and deposition discovery, defeating Defendant's Motion for Summary Judgment, witness preparation, trial preparation, and trial;

12. That with respect to Plaintiff's deposition, Defendant noticed Plaintiff for an initial deposition and later a supplemental deposition, and that Plaintiff's counsel prepared Plaintiff for these depositions and defended Plaintiff during her depositions;

13. That Plaintiff and her counsel reviewed the deposition transcripts that were ultimately presented to Plaintiff for her review and signature;

14. That Plaintiff's counsel gathered multiple medical records and bills related to Plaintiff's medical treatment related to the sexual harassment claims, and prepared for and

conducted a trial deposition of Plaintiff's treating psychiatrist, Dr. Murthy;

15. That Plaintiff's counsel spent substantial hours preparing Plaintiff for her direct examination and cross-examination at trial;

16. That Plaintiff's counsel conducted multiple Defendant witness depositions that required extensive preparation and review of Defendant investigation documents;

17. That Plaintiff's counsel further expended hours and supervised law clerks in the preparation of a Memorandum in Opposition to Defendant's Motion for Summary Judgment;

17. That Plaintiff's counsel also represented Plaintiff during jury selection and three days of trial, including a Charge conference on the third day of trial;

18. That before, during, and after each trial day, Plaintiff's counsel prepared for the following days of trial;

19. That other Plaintiff's counsel who expended time in this matter included Randolph Freking, Sheila Smith, and Megan Clark;

20. That Randolph H. Freking graduated from the Ohio State University College of Law in May, 1982; that he was admitted to the Bar in November, 1982; that from August, 1982 until December, 1990 he was an associate and then a partner with the law firm of Frost & Jacobs; that during his entire time with Frost & Jacobs, Mr. Freking was in the Labor Department, which meant that he spent all of his time on employment and labor relations matters; that on December 1, 1990, Mr. Freking went into private practice and formed his own firm; and that he has been recognized as one of the "Best Lawyers in America" (Woodward-White) in employment every year since 1995;

21. That Sheila M. Smith is a 1995 graduate of the University of Cincinnati College of Law; and that Ms. Smith is a partner in Freking & Betz and practices employment law exclusively on behalf of employees;

22. That Megan Clark is a 1995 graduate of the Indiana University School of Law-Indianapolis; and that Ms. Clark practices employment law exclusively on behalf of employees;

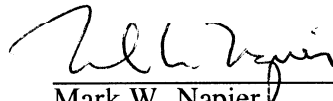
23. That paralegals who expended time in this matter include Suzanne L. Mehl, Clinton R. Collins, Nicole Seeling, Kathi Huber, Cindy Piecoro, Jennifer Trakas, Angel Carpenter and Alicia Cole;

24. That Suzanne L. Mehl has 10 years of experience as a paralegal and was formerly a paralegal at Montgomery, Rennie & Johnson; that Clinton Collins was formerly a paralegal with Frost & Jacobs and has extensive law office experience; that Nicole Seeling has been a paralegal with Freking & Betz since 1995; that Kathi Huber has more than 20 years of law office experience and became a paralegal with Freking & Betz in 1997; that Cindy Piecoro has more than 10 years of law office experience and became a paralegal with Freking & Betz in 1997; that Jennifer Trakas, Angel Carpenter and Alicia Cole all became paralegals with Freking & Betz in 2002; and that each performed traditional paralegal services in this matter.

25. That Exhibit D is a list of time spent on this case from my time records and those of the other attorneys, paralegals and various law clerks of our office.

26. That Exhibit F is a true and accurate copy of Plaintiff's expenses incurred in this case.

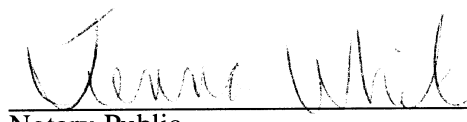
Further Affiant Sayeth Naught.


Mark W. Napier

Sworn to and subscribed before me on this 10th day of September, 2003.



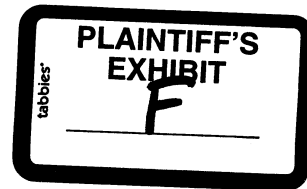
JENNA WHITE
Notary Public, State of Ohio
My Commission Expires
November 1, 2006


Notary Public

Date: 09/12/03

Detail Cost Transaction File List
Freking & Betz

Page: 1



Client	Date	Tmkr	E/A	Src	H	T	B	R	C	T	Amount	Ref #			
2036	08/04/00	6	E		P					30	0	475.00	Filing fee - Hamilton County Clerk of Courts SOUTHERLAND/CHERYL	32	
2036	04/05/01	6	E		P					30	0	5.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Filing fee - Hamilton County Clerk of Courts SOUTHERLAND/CHERYL	37	
2036	03/08/02	6	E		A					30	0	150.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Filing fee - UNITED STATES DISTRICT COURT SOUTHERLAND/CHERYL	ARCH	
Total for Tcode # 30											Billable Total	630.00 630.00	Filing fee		
2036	09/06/01	6	E		P					31	0	215.00	Court Reporter - Ace Reporting - attendance Schultz and Buhholz SOUTHERLAND/CHERYL	35	
2036	09/07/01	6	E		P					31	0	245.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Ace Reporting Phillips & Buchholz SOUTHERLAND/CHERYL	34	
2036	08/28/02	6	E		A					31	0	227.55	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Williams & Oliver - Cheryl Southernland (copy of transcript) SOUTHERLAND/CHERYL	ARCH	
2036	09/30/02	6	E		A					31	0	578.25	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Ace Reporting Services - John H.K. Buchholz (original and one copy) SOUTHERLAND/CHERYL	ARCH	
2036	02/26/03	6	E		A					31	0	169.50	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Ace Reporting Services - John Buchholz Vol. 1 SOUTHERLAND/CHERYL	ARCH	
2036	03/10/03	6	E		A					31	0	72.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Williams & Oliver - Cheryl Southernland (original transcript) SOUTHERLAND/CHERYL	ARCH	
2036	03/26/03	6	E		A					31	0	472.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Annette Schoch - R. Szakovitz - (attendance and original transcript) SOUTHERLAND/CHERYL	ARCH	
2036	03/26/03	6	E		A					31	0	100.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Litigation Support Services - Ralph Smith subpoena service SOUTHERLAND/CHERYL	ARCH	
2036	03/26/03	6	E		A					31	0	75.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Litigation Support Services - Ralph Smith (subpoena service) SOUTHERLAND/CHERYL	ARCH	
2036	04/11/03	6	E		A					31	0	546.75	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Annette McKeehan Schoch - Deposition of Ralph Smith SOUTHERLAND/CHERYL	ARCH	
2036	04/26/03	6	E		A					31	0	331.75	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Ace Reporting for original and one copy of transcript of Peggy Phillips Vol. 2 SOUTHERLAND/CHERYL	ARCH	
2036	04/26/03	6	E		A					31	0	249.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Ace Reporting Services - for original and copy of Peggy Phillips transcript Vol. 1 SOUTHERLAND/CHERYL	ARCH	
2036	09/10/03	6	E		P					31	0	254.00	LITIGATION - SYCAMORE COMMUNITY SCHOOL Court Reporter - Annette McKeehan Schoch for deposition of Kode Murthy, M.D. SOUTHERLAND/CHERYL	38	
Total for Tcode # 31											Billable Total	3535.80 3535.80	Court Reporter		
2036	01/27/00	6	E		P					7	32	0	6.10	Copies SOUTHERLAND/CHERYL	31
2036	08/05/03	6	E		P					7	32	0	52.50	LITIGATION - SYCAMORE COMMUNITY SCHOOL Copies SOUTHERLAND/CHERYL	26
2036	08/07/03	6	E		P					7	32	0	83.10	LITIGATION - SYCAMORE COMMUNITY SCHOOL Copies SOUTHERLAND/CHERYL	27
Total for Tcode # 32											Billable Total	141.70 141.70	Copies		

Date: 09/12/03

Detail Cost Transaction File List
Freking & Betz

Page: 2

Client	Date	Tmkr	E/A	Src	H P	T X	B C	R C	Tcd	C T	Amount	Ref #
2036	04/20/00	6	E		P				34	0	10.00	29
											Medical Records - Consult Inc. SOUTHERLAND/CHERYL	
2036	04/28/00	6	E		P				34	0	25.00	30
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Medical Records - Dr. Murthy SOUTHERLAND/CHERYL	
2036	08/07/00	6	E		P				34	0	58.63	36
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Medical Records - Smart Corporation SOUTHERLAND/CHERYL	
2036	03/06/01	6	E		P				34	0	150.00	33
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Narrative report - Dr. Murthy SOUTHERLAND/CHERYL	
2036	10/21/02	6	E		A				34	0	23.00	ARCH
											Medical Records - Kode Murthy, M.D., Inc. SOUTHERLAND/CHERYL	
2036	10/31/02	6	E		A				34	0	17.00	ARCH
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Medical Records - Meijer Pharmacy SOUTHERLAND/CHERYL	
2036	11/30/02	6	E		A				34	0	39.25	ARCH
											Medical Records - Drs. Russell & Hiltz SOUTHERLAND/CHERYL	
2036	03/03/03	6	E		A				34	0	16.00	ARCH
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Medical Records - Meijer Pharmacy SOUTHERLAND/CHERYL	
2036	03/26/03	6	E		A				34	0	19.00	ARCH
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Medical Records - Kode Murthy, M.D., Inc. SOUTHERLAND/CHERYL	
Total for Tcode # 34											357.88	
Billable Total											357.88	
2036	03/14/03	6	E		A				35	0	48.76	ARCH
											Witness Fee - Ralph Smith SOUTHERLAND/CHERYL	
2036	07/24/03	6	E		P				35	0	375.00	23
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Witness Fee - Kode Murthy M.D. SOUTHERLAND/CHERYL	
Total for Tcode # 35											423.76	
Billable Total											423.76	
2036	02/14/02	6	E		A				59	0	58.20	ARCH
											Copy of file from EEOC SOUTHERLAND/CHERYL	
2036	08/09/03	6	E		P				59	0	18.87	24
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Ohio Blue Print Co. (enlargements for trial) SOUTHERLAND/CHERYL	
Total for Tcode # 59											77.07	
Billable Total											77.07	
2036	10/10/02	6	E		A	7			66	0	171.20	ARCH
											Copies - Document Production SOUTHERLAND/CHERYL	
Total for Tcode # 66											171.20	
Billable Total											171.20	
2036	08/09/03	6	E		P				92	0	80.00	25
											Demonstrative Exhibits for Trial (10 boards) SOUTHERLAND/CHERYL	
Total for Tcode # 92											80.00	
Billable Total											80.00	
2036	03/31/02	6	E		A				95	0	4.40	ARCH
											Postage/Certified Mail SOUTHERLAND/CHERYL	
2036	10/11/02	6	E		A				95	0	15.05	ARCH
											LITIGATION - SYCAMORE COMMUNITY SCHOOL Postage/Certified Mail SOUTHERLAND/CHERYL	
Total for Tcode # 95											19.45	
Billable Total											19.45	
Grand Totals											5436.86	
Billable Total											5436.86	